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10/524,987	02/21/2006	Dietmar Rakutt	05-180	3235

  

34704	7590	01/17/2008
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EXAMINER	
THOMAS, ALEXANDER S	

  

ART UNIT	PAPER NUMBER
1794	

  

MAIL DATE	DELIVERY MODE
01/17/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

10/524,987

### Applicant(s)

RAKUTT ET AL.

### Examiner

Alexander Thomas

### Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/18/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 32-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/6/07.

### ***Specification***

2. Substitute specification has been entered.

### ***Claim Rejections - 35 USC § 112***

3. Claims 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The meaning and scope of the term "two crossing weld seam" is not understood.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21, 24-26, 29 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bambara et al 4,837,060. The reference discloses a plastic structural element comprising a plurality of thermoplastic foam body segments 4,14 that are welded to each other on a plane; see the figures, column 1, lines 64-65 and column 3, lines 1-3. Since the body members are heat sealed together there will inherently be a

film of pore free material between the bodies resulting in a structure which may be considered "a network of stiffening struts".

6. Claims 21 and 24-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Noel 4,755,408. The reference discloses a plastic structural element comprising a plurality of thermoplastic foam body segments 1 that are welded to each other on a plane; see the figures, column 9, line 55 through column 10, line 5. Since the body members are heat sealed together there will inherently be a film of pore free material between the bodies resulting in a structure which may be considered "a network of stiffening struts". Concerning claim 30, Figure 34 of the reference discloses a polygonal shape for the joined bodies.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noel 4,755,408. The reference discloses a plastic structural element comprising a plurality of thermoplastic foam body segments 1 that are welded to each other on a plane; see the figures, column 9, line 55 through column 10, line 5. However, the reference does not disclose the use of a closed-cell foam material or the specifically claimed materials to form the bodies. The reference does however disclose that the use of closed-cell foam bodies in thermal insulations is well known; see column 1, lines 7-

17. It would have been obvious to one of ordinary skill in the art to use a known foam material, such as closed cell foam formed from any well known material such as PET, etc., in the product of the reference in order to provide an insulating product since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

9. Claims 22, 23 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bambara et al 4,837,060 in view of Noel 4,755,408. The primary reference discloses a plastic structural element comprising a plurality of thermoplastic foam body segments 4,14 that are welded to each other on a plane; see the figures, column 1, lines 64-65 and column 3, lines 1-3. The secondary reference discloses that closed-cell foam is a well known foam material in products similar to that disclosed in the primary reference and that polygonal-shaped products can be formed. It would have been obvious to one of ordinary skill in the art to use a known foam material, such as closed cell foam formed, from any well known material, such as PET, etc., in the product of the reference in order to provide an insulating product since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. It would also have been obvious to one of ordinary skill in the art to shape the bodies in the product of the primary reference into a polygonal shape in view of the teachings in the secondary reference depending on the desired structural properties for a particular end use.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/  
Primary Examiner  
Art Unit 1794